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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,938	10/28/2003	Wai Hing Lai	016660-181	4311
21839	7590	04/09/2004		EXAMINER
BURNS DOANE SWECKER & MATHIS L L P POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			JEFFERY, JOHN A	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/693,938	LAI ET AL.
	Examiner John A. Jeffery	Art Unit 3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9, 11 and 12 is/are rejected.
- 7) Claim(s) 10 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 October 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20031028</u> | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Title of Invention

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Electric Grill With Electric Heaters Producing Smoke and Heating Grill Plate."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 9 are rejected under 35 USC 102(b) as being anticipated by Hoebing (US 3,002,444). Hoebing (US 3,002,444) discloses an electric grill comprising a first heater 72 that heats smoking element contained within container 76 and a second heater comprising elements 52, 54 for heating up the grill plate 36. See Figs. 1, 3, 6, and 8 and col. 4, lines 15-39.

Claims 1, 2, and 9 are rejected under 35 USC 102(b) as being anticipated by Giebel et al (US 5,719,377). Giebel et al (US 5,719,377) discloses an electric grill comprising first heater 16 that heats smoking material in container 18 and second heater 12 that heats grill plate 10. See Figs. 1, 2, and 5 and col. 4, lines 36-54. Claim 2

is fully met because the container is integral with bottom portion 14 and grill plate 10 is removable from bottom portion 14 (col. 3, lines 26-34); accordingly, the “container is releasably engageable with [the] grill plate.”

Claim 1 is rejected under 35 USC 102(b) as being anticipated by Boehm et al (US 5,363,748). Boehm et al (US 5,363,748) discloses an electric grill comprising grill plate 28, container 36 containing smoking materials (col. 2, lines 56-57), and heater 46 that heats the container. See Figs. 8-11 and col. 2, line 52 – col. 3, line 17.

Claims 1 and 4 are rejected under 35 USC 102(b) as being anticipated by Sham et al (US 5,943,949). Sham et al (US 5,943,949) discloses an electric grill comprising grill plate 17, container 14 containing smoking materials, and heater 12 that heats the container. See abstract and col. 2, lines 34-53. According to col. 2, lines 50-52, the container's perforated cover 18 is releasably mounted to the grill plate via spring plates 22.

Joint Inventors--Common Ownership Presumed

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligations under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not

commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boehm et al (US 5,363,748) in view of Sham et al (US 5,943,949). The claim differs from the previously cited prior art in calling for the container cover to be releasably engaged with the grill plate. But providing releasably mounted container covers on grill plates is conventional and well known in the art as evidenced by Sham et al (US 5,943,949). According to Sham et al (US 5,943,949) in col. 2, lines 50-52, the container cover 18 is releasably mounted to the grill plate via spring plates 22. In view of Sham et al (US 5,943,949), it would have been obvious to one of ordinary skill in the art to releasably mount the container cover to the grill plate in the previously described apparatus so that the cover could be readily removed from the container to replace the smoking material

yet fasten it directly to the grill thus precluding the need for additional fastening structure thereby reducing apparatus parts.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boehm et al (US 5,363,748) in view of Sham et al (US 5,943,949) and further in view of Robbins (US 4,374,489). The claims differ from the previously cited prior art in calling for releasably mounting the container to the grill plate. Although it is unclear whether the container is releasably mounted to the grill plate in Sham et al (US 5,943,949), releasable mountings for smoking containers is nevertheless well known in the art. Robbins (US 4,374,489), for example, discloses in Fig. 1 and col. 3, lines 10-34 a removable smoking container that enables removal of the container before or after grilling. In view of Robbins (US 4,374,489), it would have been obvious to one of ordinary skill in the art to provide a removably-coupled smoking container in the previously described apparatus to enable quick and easy removal of the container before or after grilling.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boehm et al (US 5,363,748) in view of Giebel et al (US 5,719,377). The claim differs from the previously cited prior art in calling for a second heater to heat the grill plate. But providing independent heaters for the smoking container and grill plate respectively is well known in the art as evidenced by Giebel et al (US 5,719,377) who discloses an electric grill comprising first heater 16 that heats smoking material in container 18 and

second heater 12 that heats grill plate 10. See Figs. 1, 2, and 5 and col. 4, lines 36-54. Such an arrangement enables independent temperature control of both the grill plate and the container heaters as desired. In view of Giebel et al (US 5,719,377), it would have been obvious to one of ordinary skill in the art to provide separate grill plate and container heaters in the previously described apparatus to enable independent temperature control of both the grill plate and the container heaters as desired.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boehm et al (US 5,363,748) in view of WO00/56196. The claims differ from the previously cited prior art in calling for the first heater to be a halogen lamp. Providing lamps as heat sources in electric grills is conventional and well known in the art as evidenced by WO00/56196 noting quartz lamps 3. As is well known in the art, electric lamps provide a much faster heat-up and cool-down than conventional wire electric heating elements. In view of WO00/56196, it would have been obvious to one of ordinary skill in the art to use a lamp heat source in the previously described apparatus to provide a much faster heat-up and cool-down than conventional wire electric heating elements. Regarding claim 12, halogen lamps are conventionally used in radiant electric heaters and no criticality is seen in their use over quartz infrared heaters.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boehm et al (US 5,363,748) in view of Sham et al (US 5,943,949) and further in view of JP2001-104165. The claims differ from the previously cited prior art in calling for a fan

drawing air from the cavity between the grill plate and the cover into the body member interior, and directing air back into the cavity after passing through a filter. Providing fans to create such an airflow, however, is conventional and well known in the art as evidenced by JP2001-104165 noting fan 12 that directs air into the interior of the body member, through filter 9, and back to the cavity between the grill plate and cover. Note airflow arrows in Fig. 1. Such an arrangement provides a recirculatory airflow path that filters undesirable odors from the cavity. In view of JP2001-104165, it would have been obvious to one of ordinary skill in the art to provide a fan creating a recirculatory airflow path in the previously described apparatus to that filter undesirable odors from the cavity.

Allowable Subject Matter

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Other Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The art should be both separately considered and considered in conjunction with the previously cited prior art when responding to this action. JP 331, US 602, US 905, US 634, US 067 disclose electric grills relevant to the instant invention.

Conclusion

Any inquiry concerning this or earlier communications from the examiner should be directed to John A. Jeffery at telephone number (703) 306-4601 or fax (703) 305-3463. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 4:30 PM EST. The examiner can also be reached on alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0861.



JOHN A. JEFFERY
PRIMARY EXAMINER

4/6/04